

Securities Exchange Act of 1934 (*Exchange Act*) for its latest fiscal year;

(ii) The registrant's annual report on Form 10-K and Form 10-KSB (§249.310 of this chapter), U5S (§259.5s of this chapter), 20-F (§249.220f of this chapter) or, in the case of registrants described in General Instruction A.(2) of Form 40-F, 40-F (§249.240f of this chapter) for its latest fiscal year;

(iii) The latest prospectus filed pursuant to Rule 424(b) (§230.424(b) of this chapter) under the Act that contains audited financial statements for the registrant's latest fiscal year, *Provided that* the financial statements are not incorporated by reference from another filing, and *Provided further* that such prospectus contains substantially the information required by Rule 14a-3(b) or the registration statement was on Form SB-2 (§239.28 of this chapter) or F-1 (§239.31 of this chapter); or

(iv) The registrant's effective Exchange Act registration statement on Form 10 and Form 10-SB (§249.210 of this chapter), 20-F or, in the case of registrants described in General Instruction A.(2) of Form 40-F, 40-F containing audited financial statements for the registrant's latest fiscal year.

Instructions. 1. If a registrant has previously sent or given an employee a copy of any document specified in clauses (i)-(iv) of paragraph (b)(2) for the latest fiscal year, it need not be re-delivered, but the registrant shall furnish promptly, without charge, a copy of such document upon written or oral request of the employee.

2. If the latest fiscal year of the registrant has ended within 120 days (or 190 days with respect to foreign private issuers) prior to the delivery of the documents containing the information specified by Part I of Form S-8, the registrant may deliver a document containing financial statements for the fiscal year preceding the last fiscal year, *Provided that* within the 120 or 190 day period a document containing financial statements for the latest fiscal year is furnished to each employee.

(3) The registrant shall deliver or cause to be delivered promptly, without charge, to each employee to whom information is required to be delivered, upon written or oral request, a copy of the information that has been incorporated by reference pursuant to Item 3 of Form S-8 (not including exhibits to the information that is incorporated by

reference unless such exhibits are specifically incorporated by reference into the information that the registration statement incorporates).

(4) Where interests in a plan are registered, the registrant shall deliver or cause to be delivered promptly, without charge, to each employee to whom information is required to be delivered, upon written or oral request, a copy of the then latest annual report of the plan filed pursuant to Section 15(d) of the Exchange Act, whether on Form 11-K (§249.311 of this chapter) or included as part of the registrant's annual report on Form 10-K and Form 10-KSB.

(5) The registrant shall deliver or cause to be delivered to all employees participating in a stock option plan or plan fund that invests in registrant securities (and other plan participants who request such information orally or in writing) who do not otherwise receive such material, copies of all reports, proxy statements and other communications distributed to its security holders generally, provided that such material is sent or delivered no later than the time it is sent to security holders.

(c) As used in this Rule, the term *employee benefit plan* is defined in Rule 405 of Regulation C (§230.405 of this chapter) and the term *employee* is defined in General Instruction A.1 of Form S-8.

[55 FR 23923, June 13, 1990, as amended at 57 FR 10614, Mar. 27, 1992]

§230.429 Prospectus relating to several registration statements.

(a) Where two or more registration statements have been filed by the same registrant, a prospectus which meets the requirements of the act and the rules and regulations thereunder for use in connection with the securities covered by the latest registration statement shall be deemed to meet such requirements for use in connection with the securities covered by the earlier registration statements if such prospectus includes all of the information which would currently be required in a prospectus relating to the securities covered by the earlier statements.

(b) Where the use of a combined prospectus is permitted by paragraph (a)

of this section, the filing of such prospectus as a part of the latest registration statement or compliance with any undertaking contained in such statement to file as an amendment thereto any prospectus which purports to meet the requirements of section 10(a)(3) of the Act, shall be deemed to constitute compliance with any similar undertaking contained in the earlier registration statements. The latest registration statement or any such amendment thereto shall indicate on the facing page at the bottom thereof the earlier registration statements to which the combined prospectus relates but copies of such prospectus need not be filed with such earlier statements. Where a combined prospectus is being used pursuant to paragraph (a) of this section, a note should be added to the "Calculation of Registration Fee" table in the latest registration statement or any amendment thereto, stating the number or amount of securities being carried forward and the amount of the filing fee associated with such securities that was previously paid with the earlier registration statement(s).

[33 FR 14638, Oct. 1, 1968, as amended at 36 FR 778, Jan. 16, 1971; 42 FR 12880, Mar. 7, 1977; 43 FR 33905, Aug. 2, 1978; 60 FR 26615, 26616, May 17, 1995]

§ 230.430 Prospectus for use prior to effective date.

(a) A form of prospectus filed as a part of the registration statement shall be deemed to meet the requirements of section 10 of the Act for the purpose of section 5(b)(1) thereof prior to the effective date of the registration statement, provided such form of prospectus contains substantially the information required by the Act and the rules and regulations thereunder to be included in a prospectus meeting the requirements of section 10(a) of the Act for the securities being registered, or contains substantially that information except for the omission of information with respect to the offering price, underwriting discounts or commissions, discounts or commissions to dealers, amount of proceeds, conversion rates, call prices, or other matters dependent upon the offering price. Every such form of prospectus shall be deemed to have been filed as a part of the reg-

istration statement for the purpose of section 7 of the Act.

(b) A form of prospectus filed as part of a registration statement on Form N-1A (§239.15A and §274.11A of this chapter), Form N-2 (§239.14 and §274.11a-1 of this chapter), Form N-3 (§239.17a and §274.11b of this chapter), or Form N-4 (§239.17b and §274.11c of this chapter) shall be deemed to meet the requirements of Section 10 of the Act for the purpose of Section 5(b)(1) thereof prior to the effective date of the registration statement, provided that:

(1) Such form of prospectus meets the requirements of paragraph (a) of this section; and

(2) Such registration statement contains a form of Statement of Additional Information that is made available to persons receiving such prospectus upon written or oral request, and without charge, unless the form of prospectus contains the information otherwise required to be disclosed in the form of Statement of Additional Information. Every such form of prospectus shall be deemed to have been filed as part of the registration statement for the purpose of section 7 of the Act.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 308(a)(2), 90 Stat. 57; secs. 3(b), 12, 13, 14, 15(d), 23(a), 48 Stat. 882, 892, 894, 895, 901; secs. 203(a), 1, 3, 8, 49 Stat. 704, 1375, 1377, 1379; sec. 202, 68 Stat. 686; secs. 4, 5, 6(d), 78 Stat. 569, 570-574; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 28(c), 1, 2, 3, 4, 5, 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 89 Stat. 117, 118, 119; sec. 308(b), 90 Stat. 57; sec. 18, 89 Stat. 155; secs. 202, 203, 204, 91 Stat. 1494, 1498-1500; sec. 20(a), 49 Stat. 833; sec. 319, 53 Stat. 1173; sec. 38, 54 Stat. 841; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 79t(a), 77sss(a), 80a-37)

[47 FR 11440, Mar. 16, 1982, as amended at 57 FR 56834, Dec. 1, 1992]

§ 230.430A Prospectus in a registration statement at the time of effectiveness.

(a) The form of prospectus filed as part of a registration statement that is declared effective may omit information with respect to the public offering price, underwriting syndicate (including any material relationships between the registrant and underwriters not named therein), underwriting discounts